To Jim Shea from Harold Weisberg 4/20/80

JFK assassination records appeals

Field office and HQ records

Referrals

Withholding of the public domain - what the Warren Commission published

Failure to specify exemptions claimed - really refusal to specify

Withholding of referred records for two years

Under date of 4/18/80 I received from the FBI 2511 pages of referred records pertaining to the investigation of the assassination of President Kennedy. I have begun to examine them but have laid this aside because the records require reprocessing because in the processing the FBI has again indulged in Counterproing, its FOIA dirty tricks.

Of course this is not all the referrals. The FBI's letter is careful to cover the FBI on this while also being careful not to inform me or anyone else readings its covering letter. A glance at the worksheets discloses that the CIA has not acted on the referrals to it. After all, it was only in 1977 that the records were referred. With all the intelligence disasters it has been required to arrange so that it, like the FBI, could attribute failures to the FOIA, it has not had time to process referrals. Moreover, the CIA is stonewalling its own compliance pertaining to JFK assassination records. It has yet to comply with 1975 requests for them. (Not its record - I have a 1971 request not complied with.) Of course it was only a President who was assassinated when in theory these agencies were to have prevented it by their superior intelligence operations, that President to boot, and he is dead anyway, isn't he?

If you examine the worksheets you'll find that the dates the referrals were acted on by t ose who did act on them is stated, Department of Defense, 1-25-78; State, 2-17-78; Secret Service, 4-17-78, etc. Why the FBI stonewalled for two years and more in providing copies of these refer als I do not know unless it was either the time required by preparing and filing false, deceptive and misleading affidavits with the courts or the time required for its campaign against the Act or the time required for its puffery, like having its agents who are engaged in supposedly dangerous intelligence operations against suspected political murderers (Image 7) appear on 60 Minutes. (Without TC claim.)

Of course it also required some time to go around trying to corrupt public officials while making it appear that they were not entrapped. And more time to cut the TV nets in so they could have their cameras in place to film the supposedly secret goings on.

Whatever explains it, these records were referred in 1977, according to the original worksheets and the referral slips with the underlying records.

If you compare the worksheets for these referrals with the referred records you will find that no claims to exemption are posted on the records themselves but that claims are indicated on the worksheets. This means that nobody outside the FBI knows what claim is made for what withholding.

In only one case up to Serial 1280 is there a single claim to exemption. If only one exemption is claimed then it is obvious that the withholdings are attributed to it.

But item 1254. It was referred to the Secret Service, which claimed (7)(C) and (D). The FBI added a (b)(1) claim. But there is no way of knowing what withholding is attributed to any one of the three claims.

Most of the withholdings have two claims made for them. The FBI knows it is supposed to post the claim at the point of exemption and when it had to in the past it did. Unless it does there is no way of knowing what is claimed, the requester has no rights and the Act has no meaning. Our own affidavits attest to the fact that the FBI has erred in more than half its withholdings.

I don't want to waste time having to reread these records so I will not examine the rest until they are reprocessed and I can know what exemption is being claimed. It appears that there will be a substantial number of questions because the large number of other claims, like (7)E).

And who knows, maybe by then other agencies, not only the CIA, will have acted on referrals. Like the Archives, which has no backlog.

In what I have read it is quite common for the public domain to have been referred, withheld by referral and then withheld by the usual FBI stonewalling of two years. This includes what the Warren Commission published, referred to State on several occasions.

And these are unclassified records at that. Like an account of Oswald's pretended renunciation of his citizenship in the Moscow Embassy, by the one who testified to it before the Commission and whose reports are made available by the Commission. Or like the Keystone Kops business of several reports of the Mexican closing of the border to help the FBI catch the assassin. The border was closed briefly by the Mexicans on 11/22/63, not by the U.S. One of these reports is dated 11/23, or three days after the border was reopened, the other the night of 11/22, or hours after it was reopened. Both allege it was closed at the time the report was written.

The FBI is not averse to withholding what it disclosed as well as the Commission, like 472. Both did disclose what is withheld there, in 1990 yet.

Because of its earlier Counterpoint, that "previously processed" dodge, the FBI has also involved the field office records in this sordid business.

Need I remind you of what this kind of withholding means for that rather large project, the case index, the enormous costs that can be wasted, including by prolonged litigation and endless reprocessings?

These kinds of dirty tricks do waste requesters, the courts and all others and they are an effective part of a long-standing campaign against the Act and requesters. However, they are indecent and historically they will be a self-indictment by the FBI.

And however slight, there is always the chance that someone who will be heard may take an interest.